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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Francisco Vidal, an individual; Sandra Scharas, an individual, Plaintiffs, vs. Las Vegas Metropolitan Police Department, a political entity; Matthew Jogodka, aka David Davis, an agent and Officer of Las Vegas Metropolitan Police Department; Joseph Schmitt, an agent and Officer of Las Vegas Metropolitan Police Department; Cynthia Sauchak, an agent and Officer of Las Vegas Metropolitan Police Department; Enrique Hernandez, an agent and Officer of Las Vegas Metropolitan Police Department; Heather Jogodka, aka Kari Davis, an individual; and DOE Officers I through X, inclusive, Defendants.	Case No.: 2:15-cv-01943-RFB-CWH **SECOND AMENDED COMPLAINT AND JURY TRIAL DEMAND**

COMES NOW Plaintiffs, Francisco Vidal and Sandra Scharas, by and through his attorney, CRAIG A. MUELLER, ESQ., of the law firm MUELLER, HINDS AND ASSOCIATES, CHTD., for causes of actions against Defendants, allege as follows:

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JURISDICTIONAL STATEMENT

1. This action is brought pursuant to 42 U.S.C. § 1983. Jurisdiction is based upon 28 U.S.C. § 1331 and § 1343(3) and (4) and the aforementioned statutory provision. Plaintiffs further invoke this Court's pendent jurisdiction to hear and decide claims arising under state law.

2. That this is the second amended Complaint filed in this matter, and that the Defendants above captioned did not file an Answer or other judicial motion prior to its filing.

PARTIES

3. That at all times pertinent hereto, Plaintiff Francisco Vidal is and was a citizen of the United States of America and a resident of the State of Nevada.

4. That at all times pertinent hereto, Plaintiff Sandra Scharas is and was a citizen of the United States of America and was a resident of the State of Nevada at the time of the complained offense;

5. That Defendant Las Vegas Metropolitan Police Department (hereinafter "LVMPD") is a political entity formed and operated pursuant to the Nevada Revised Statutes and at all times relevant hereto employed Defendant Matthew Jogodka ("Defendant M. Jogodka"), also known as David Davis, P# 7587; Defendant Joseph Schmitt, P# 3411; Defendant Cynthia Souchak, P# 4968; Defendant Enrique Hernandez, P# 7567; and Defendant Officer Does I through X (collectively referred to as "Defendant Officers").

6. That Defendant Heather Jogodka, also known as Kari Davis, is and was a citizen of the United States and America and a resident of the State of Nevada.

7. That at all times pertinent hereto, and in all actions described herein, Defendant Officers were acting under the color of law and under color of authority as police officers of the LVMPD.

8. The true names and capacities, whether individual, corporate, associate, partnership or otherwise were the agents of one another of Defendants herein designated as Doe Officers I through X, inclusive (hereinafter "Officer Does"), are unknown to Plaintiff who, therefore, sue said Defendants by such fictitious names. Plaintiff alleges that each named defendant and defendant designated as Officer Does negligently, willfully, maliciously, unlawfully, contractually, vicariously, or otherwise are legally responsible for the events and happenings herein referred to and likewise proximately caused injury and damage to Plaintiff. Plaintiff asks leave of this Court to insert the true names and capacities of such Officer Does when the same have been ascertained, and will further ask leave to join such Defendants in this action. Request is made that any amendment to this Complaint to add DOE Defendants relate back to the date of filing of this Complaint.

GENERAL ALLEGATIONS

9. That Plaintiff incorporates by reference paragraphs 1 through 8 as though fully set forth herein.

10. That on or about October 17, 2013, Defendant Officers were under the employ of Defendant LVMPD.

11. That on or about October 17, 2013, Plaintiffs Francisco Vidal and Sandra Scharas (collectively, "Plaintiffs") resided at 7731 Morning Grove Court, Las Vegas, Nevada 89131 along with their two year old daughter, Khloe Vidal.

12. That at approximately 2:30pm on October 17, 2013, Khloe Vidal opened the front door and walked across the street to the residence located at 7741 Morning Grove Court, Las Vegas, Nevada 89131 (the "Subject Property").

13. That the Subject Property was being rented and occupied by Defendants M. Jogodka and Heather Jogodka, under the aliases of David Davis and Kari Davis, respectively.

14. That on October 17, 2013, Khloe Vidal entered through the side gate located at the Subject Property and was able to access to pool unsupervised.

15. That on October 17, 2013, sometime between the hours of approximately 2:30pm and 4:30pm, Khloe Vidal tragically drowned.

16. That at approximately 6:00pm on October 17, 2013, Khloe Vidal's body was discovered by Defendant M. Jogodka.

17. That on October 17, 2013, Defendant LVMPD arrived to conduct an investigation into Khloe Vidal's death.

18. That prior to initiating this investigation, on or about 7:19pm on October 17, 2013, Defendant M. Jogodka called Defendant LVMPD to inquire about the status of the case, and in doing so identified himself as Detective Jogodka from Intel.

19. That Defendant LVMPD had full and active knowledge that Defendant M. Jogodka was an undercover officer under the employ of Defendant LVMPD, operating under the alias of David Davis.

20. That Defendant LVMPD had full and active knowledge that Defendant Heather Jogodka was the wife of undercover officer Defendant M. Jogodka, herself operating under the alias of Kari Davis.

21. That Defendant LVMPD proceeded to conduct an investigation and take statements of an individual named "David Davis."

22. That Defendant LVMPD proceeded to conduct an investigation and take statements of an individual named "Kari Davis."

23. That during an interview of Defendant M. Jogodka under the alias "David Davis," Defendant M. Jogodka stated that he believed Plaintiff Vidal was a drug addict or involved in drug trafficking.

24. That the statements of Defendant M. Jogodka were made with the deliberate intent of misleading the active investigation on Plaintiff Vidal, rather than on Defendant M. Jogodka and Defendant Heather Jogodka.

25. That the statements of Defendant M. Jogodka were made with the deliberate intent of misleading the active investigation on Plaintiff Vidal in an attempt to avoid civil liability against Defendant Officers for the potential wrongful death of Khloe Vidal.

26. That Defendant LVMPD had full and active awareness that the statements, interviews and other investigative materials by "David Davis" and "Kari Davis" were in fact materials by Defendant M. Jogodka and Defendant Heather Jogodka, respectively.

27. That Defendants, and each of them, conspired to alter the scene of Khloe Vidal's death in order to avoid civil liability, to wit:

    a. By installing wire mesh on the gate where Khloe Vidal gained access to the pool, in an attempt to retroactively make it appear that Khloe Vidal could not slide directly through the slats in the gate that were too wide in violation of municipal and county code;
    b. By relocating a large trailer to the front of the gate where Khloe Vidal could have gained access to the pool, in an attempt to retroactively make it appear that Khloe Vidal could not have accessed the pool through that gate.
    c. By removing a piece of wood that had been used to prop open the gate where Khloe Vidal gained access to the pool.

28. That Defendant Joseph Schmitt and Defendant Enrique Hernandez knew the scene of Khloe Vidal's death to be altered prior to taking photographic and forensic evidence of the scene.
29. That Defendant Joseph Schmitt and Defendant Enrique Hernandez deliberately and intentionally collected photographic and forensic evidence of a crime scene known to be altered from its natural state in order to avoid potential civil liability against Defendant M. Jogodka, Defendant Heather Jogodka and Defendant LVMPD.

30. That as a result of the investigative materials and statements by Defendant M. Jogodka and Defendant Heather Jogodka, criminal charges were filed against Plaintiff Vidal for the death of Khloe Vidal.

31. That during the criminal process in Las Vegas Justice Court and the Eighth Judicial District Court, Defendant LVMPD actively and intentionally concealed the true identifies of "David Davis" and "Kari Davis" as Defendant M. Jogodka and Defendant Heather Jogodka, respectively.

32. That Defendant M. Jogodka testified under oath at Plaintiff Vidal's preliminary hearing and subsequent trial that he was in fact "David Davis."

33. That Defendant M. Jogodka knew this testimony to be false, as "David Davis" was a false identity when his true identity is Las Vegas Metropolitan Police Department Detective Matthew Jogodka.

34. That during Plaintiff Vida's preliminary hearing on March 21, 2014, Defendant M. Jogodka affirmatively represented to Plaintiffs and to the Court that he was in no way involved with law enforcement via the following exchange:

> Q: (BY MR. BOLEY) Have you ever been employed by a law enforcement agency?
> A: No.
> Q: Never been a cop or never an agent of any-
> A: No.

35. That Defendant M. Jogodka knew this information to be false, as he was in fact under the employ of Defendant LVMPD as an undercover officer of the Intelligence and/or Drug Intelligence divisions.

36. That the false testimony provided by Defendant M. Jogodka and resulted in Plaintiff Vidal's criminal case proceeding to the Eighth Judicial District Court.

37. That during Plaintiff Vidal's criminal trial, Defendant M. Jogodka actively concealed his true identities and against testified under oath under the false names of "David Davis."

38. That during Plaintiff Vidal's preliminary hearing and criminal trial, Defendant Cynthia Souchak produced photographs, documentary evidence, investigative material, and other documents (collectively "Investigative Documents") to be introduced and used against Plaintiff Vidal during his criminal proceedings.

39. That Defendant Cynthia Souchak knew that such Investigate Documents to be false by failing to show the natural scene of Khloe Vidal's death.

40. That Defendant Cynthia Souchak knew that such Investigative Documents to show pictorial evidence of a crime scene which had been altered.

41. That Defendant Cynthia Souchak knew that such Investigative Documents purportedly provided by David Davis and Kari Davis were in fact provided by Defendant M. Jogodka and his wife, Defendant Heather Jogodka.

42. That Defendnat Cynthia Souchak failed to bring to the Court's attention the falsity contained in the Investigative Documents provided to the Court.

43. That after criminal actions had been initiated against Plaintiff Vidal and Plaintiff Scharas, Plaintiff Vidal and Plaintiff Scharas jointly learned of the alteration of the scene of Khloe Vidal's death as reflected in the Investigative Materials provided to the Court and their respective attorneys.

44. That after criminal actions had been initiated against Plaintiff Vidal and Plaintiff Scharas, Plaintiff Vidal and Plaintiff Scharas jointly learned of the true identities of Defendant M. Jogodka and Defendant Heather Jogodka, operating under the aliases of David Davis and Kari Davis, respectively.

45. That upon learning of the alteration of the scene and true identities of Defendant M. Jogodka and Defendant Heather Jogodka, Plaintiff Vidal and Plaintiff Scharas jointly attempted to report the matter to Las Vegas Metropolitan Police Department's Internal Affairs Unit ("LMVPD Internal Affairs).

46. That following Plaintiff's report and disclosures, LVMPD Internal Affairs informed them that an investigation would be launched right away and they would be contacted shortly.

47. That following Plaintiff's initial contact with LVMPD Internal Affairs, they failed to receive any contact whatsoever regarding the initiation, status or conclusion of any investigation.

48. That Plaintiff Vidal and Plaintiff Scharas jointly and individually attempted to contact LVMPD Internal Affairs on numerous occasions over the course of several months, and were consistently told that both the initial investigating Officer and all supervisors were always unavailable or would call back.

49. That Plaintiff Vidal and Plaintiff Scharas failed to receive any contact whatsoever regarding the initiation, status or conclusion of any investigation undertaken into their claims from any member of Defendant LVMPD or LVMPD Internal Affairs Unit, and as of this Complaint has still not received any contact.

FIRST CLAIM FOR RELIEF

Violation of Civil Rights under 42 U.S.C. § 1983 (Against Defendants Officers and LMVPD)

50. That Plaintiff incorporates by reference paragraphs 1 through 51 as though fully set forth herein.

51. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

52. That Defendant Officers intentionally and deliberately altered the scene of Khloe Vidal's death in the matter set forth above.

53. That Defendant Officers did intentionally and deliberately alter the scene of Khloe Vidal's death to avoid potential civil liability against Defendant Officers and Defendant LVMPD.

54. That had Defendant Officers investigated the scene in its natural state, Defendant M. Jogodka, Defendant Heather Jogodka, and Defendant LVMPD in fact could have been liable for the wrongful death of Khloe Vidal.

55. That evidence depicting the altered scene of Khloe Vidal's death was used against Plaintiff Vidal in his felony jury trial.

56. That based in part on the evidence depicting the altered scene of Khloe Vidal's death, on May 28, 2014, Plaintiff Vidal was convicted of Child Abuse, Neglect or Endangerment with Substantial Bodily Harm and Child Neglect or Endangerment.

57. That Plaintiff Vidal has lost several constitutional rights as consequences of said conviction.

58. That it has been necessary for Plaintiff to retain the services of counsel to represent him in the above-entitled matter, and that he should be awarded reasonable attorney's fees and costs incurred herein.

59. That the actions of Defendants described herein violated clearly established and well settled federal constitutional rights which entitle Plaintiff Vidal to a fair trial, Equal Protection and Due Process of Law.

60. As a direct and proximate result of Defendant's alteration of the scene of Khloe Vidal's death, Plaintiff Vidal has experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

61. The acts of Defendants were committed knowingly, willfully, and maliciously with the intent to harm, injure, vex, harass, and oppress Plaintiff Vidal. As a result, Plaintiff seeks punitive and exemplary damages from Defendants, and each of them individually.

SECOND CLAIM FOR RELIEF

Violation of Civil Rights under 42 U.S.C. § 1983 (Against Defendant M. Jogodka)

62. That Plaintiff incorporates by reference paragraphs 1 through 63 as though fully set forth herein.

63. That at all times relevant hereto, Defendant M. Jogodka was acting within the scope of and his authority as an agent and officer of Defendant LVMPD.

64. That Defendant M. Jogodka falsely testified under oath at Plaintiff Vidal's preliminary hearing by stating that he did not belong to any law enforcement agency.

65. That Defendant M. Jogodka falsely testified under oath at Plaintiff Vidal's preliminary hearing by stating that his true identity was "David Davis."

66. That Defendant M. Jogodka knew such testimony to be false, as his identity is actually "Matthew Jogodka," a member of the Las Vegas Metropolitan Police Department Intelligence and/or Drug Intelligence Division.

67. That Defendant M. Jogodka provided such testimony known to be false in order to wrongfully convict Plaintiff Vidal.

68. That Defendant M. Jogodka provided such testimony known to be false in order to avoid potential civil liability for the wrongful death of Khloe Vidal.

69. That Defendant M. Jogodka's false testimony was intended to or did in fact undermine the integrity of the court proceeding against Plaintiff Vidal.

70. That Plaintiff Vidal has lost several constitutional rights as consequences of said conviction arising from Defendant's false testimony.

71. That it has been necessary for Plaintiff to retain the services of counsel to represent him in the above-entitled matter, and that he should be awarded reasonable attorney's fees and costs incurred herein.

72. That the actions of Defendants described herein violated clearly established and well settled federal constitutional rights which entitle Plaintiff Vidal to a fair trial, Equal Protection and Due Process of Law.

73. As a direct and proximate result of Defendant's alteration of the scene of Khloe Vidal's death, Plaintiff Vidal has experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

74. The acts of Defendants were committed knowingly, willfully, and maliciously with the intent to harm, injure, vex, harass, and oppress Plaintiff Vidal. As a result, Plaintiff seeks punitive and exemplary damages from Defendants, and each of them individually.

THIRD CLAIM FOR RELIEF

Violation of Civil Rights under 42 U.S.C. § 1983 (Against Defendant M. Jogodka)

75. That Plaintiff incorporates by reference paragraphs 1 through 76 as though fully set forth herein.

76. That at all times relevant hereto, Defendant M. Jogodka was acting within the scope of and his authority as an agent and officer of Defendant LVMPD.

77. That Defendant M. Jogodka falsely testified under oath at Plaintiff Vidal's felony trial by stating that his true identity was "David Davis".

78. That Defendant M. Jogodka knew such testimony to be false, as his identity is actually "Matthew Jogodka," a member of the Las Vegas Metropolitan Police Department Intelligence and/or Drug Intelligence Division.

79. That Defendant M. Jogodka provided such testimony known to be false in order to wrongfully convict Plaintiff Vidal.

80. That Defendant M. Jogodka provided such testimony known to be false in order to avoid potential civil liability for the wrongful death of Khloe Vidal.

81. That Defendant M. Jogodka's false testimony was intended to or did in fact undermine the integrity of the court proceeding against Plaintiff Vidal.

82. That Plaintiff Vidal has lost several constitutional rights as consequences of said conviction arising from Defendant's false testimony.

83. That it has been necessary for Plaintiff to retain the services of counsel to represent him in the above-entitled matter, and that he should be awarded reasonable attorney's fees and costs incurred herein.

84. That the actions of Defendants described herein violated clearly established and well settled federal constitutional rights which entitle Plaintiff Vidal to a fair trial, Equal Protection and Due Process of Law.

85. As a direct and proximate result of Defendant's alteration of the scene of Khloe Vidal's death, Plaintiff Vidal has experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

86. The acts of Defendants were committed knowingly, willfully, and maliciously with the intent to harm, injure, vex, harass, and oppress Plaintiff Vidal. As a result, Plaintiff seeks punitive and exemplary damages from Defendants, and each of them individually.

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FOURTH CLAIM FOR RELIEF

Violation of Civil Rights under 42 U.S.C. § 1983 (Against Defendants Joseph Schmitt, Enrique Hernandez, and Cynthia Souchak)

87. That Plaintiff incorporates by reference paragraphs 1 through 88 as though fully set forth herein.

88. That at all times relevant hereto, Defendant Joseph Schmitt, Defendant Enrique Hernandez and Defendant Cynthia Souchak were acting within the scope of and authority as agents and officers of Defendant LVMPD.

89. That at all times relevant hereto, Defendants Schmitt, Hernandez and Souchak were acting in concert with one another.

90. That Defendants Schmitt, Hernandez and Souchak did in fact have knowledge that photographic and forensic evidence depicting the scene of Khloe Vidal's death had been altered from its natural state.

91. That in spite of this knowledge, Defendants Schmitt, Hernandez and Souchak provided the photographic and forensic evidence to the Court as though they depicted a natural, un-altered scene.

92. That Defendants Schmitt, Hernandez, and Souchak knew or should have known that such photographic and forensic evidence depicting the altered scene of Khloe Vidal's death would be used against Plaintiff Scharas and/or Plaintiff Vidal's criminal proceedings.

93. That Defendants Schmitt, Hernandez and Souchak provided such photographic and forensic evidence in order to wrongfully convict Plaintiff Vidal.

94. That Defendants Schmitt, Hernandez and Souchak provided such photographic and forensic evidence in order to avoid potential civil liability for the wrongful death of Khloe Vidal.

95. That Defendants Schmitt, Hernandez and Souchak's provided photographic or forensic evidence was intended to or did in fact undermine the integrity of the court proceeding against Plaintiff Vidal and/or Plaintiff Scharas.

96. That Plaintiff Vidal has lost several constitutional rights as consequences of said conviction arising from the photographic evidence provided by Defendants Schmitt, Hernandez and Souchak.

97. That it has been necessary for Plaintiff to retain the services of counsel to represent him in the above-entitled matter, and that he should be awarded reasonable attorney's fees and costs incurred herein.

98. That the actions of Defendants described herein violated clearly established and well settled federal constitutional rights which entitle Plaintiff Vidal to a fair trial, Equal Protection and Due Process of Law.

99. As a direct and proximate result of Defendant's alteration of the scene of Khloe Vidal's death, Plaintiff Vidal has experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

100. The acts of Defendants were committed knowingly, willfully, and maliciously with the intent to harm, injure, vex, harass, and oppress Plaintiff Vidal. As a result, Plaintiff seeks punitive and exemplary damages from Defendants, and each of them individually.

FIFTH CLAIM FOR RELIEF

Intentional Infliction of Emotional Distress (Against All Defendants)

101. That Plaintiff incorporates by reference paragraphs 1 through 102 as though fully set forth herein.

102. That at all times relevant hereto, Defendant Officers were acting within the scope of and authority as agents and officers of Defendant LVMPD.

103. That at all times relevant hereto, Defendant Officers were acting in concert with one another.

104. That the conduct of Defendant Officers and Defendant Heather Jogodka described herein was so extreme or outrageous, and was performed with either the intention of or reckless disregard for causing emotional distress to Plaintiff Vidal and Plaintiff Scharas, to wit:

a. Defendant Schmitt altering the scene of Khloe Vidal's death prior to collecting photographic and forensic evidence in order to avoid potential civil liability;
b. Defendant Hernandez altering the scene of Khloe Vidal's death prior to collecting photographic and forensic evidence in order to avoid potential civil liability;
c. Defendant M. Jogodka altering the scene of Khloe Vidal's in order to avoid potential civil liability;
d. Defendant M. Jogodka falsely testifying under oath during Francisco Vidal's preliminary trial regarding his true identity;
e. Defendant M. Jogodka's falsely testifying under oath during Francisco Vidal's preliminary hearing regarding his involvement with law enforcement;
f. Defendant M. Jogodka falsely testifying under oath during Francisco Vidal's felony jury trial regarding his true identity;
g. Defendant Schmitt providing photographic and forensic evidence known to depict an altered scene of Khloe Vidal's death to be used against Plaintiffs in their respective criminal proceedings;
h. Defendant Hernandez providing photographic and forensic evidence known to depict an altered scene of Khloe Vidal's death to be used against Plaintiffs in their respective criminal proceedings;

i. Defendant Souchak providing photographic and forensic evidence known to depict an altered scene of Khloe Vidal's death to be used against Plaintiffs in their respective criminal proceedings;

j. Defendant Schmitt breaching his duty to protect and serve the citizens of Nevada in order to avoid potential civil liability;

k. Defendant Hernandez breaching his duty to protect and serve the citizens of Nevada in order to avoid potential civil liability;

l. Defendant Souchak breaching her duty to protect and serve the citizens of Nevada in order to avoid potential civil liability;

m. All Defendants, and each of them, acting in conspiracy with one another in order to avoid potential civil liability;

n. All Defendants, and each of them, acting in concert with one another in order to avoid potential civil liability.

105. That as a direct and proximate cause of Defendants, and each of theirs, unlawful conduct, Plaintiff Vidal and Scharas have suffered severe or extreme emotional distress, causing them damages which entitle them to compensation for his pain and suffering, lost earnings, lost earning capacity, medical expenses and other related costs, including attorney's fees, in an amount to be determined at trial.

106. That the conduct of the Defendants, and each of them, individually and in concert with one another was willful, intentional, oppressive, malicious and done in a wanton and reckless disregard of Plaintiff's rights and thereby warrant the imposition of punitive damages.

SIXTH CLAIM FOR RELIEF

Negligence (Against Defendants Officers and LVMPD)

107. That Plaintiff incorporates by reference paragraphs 1 through 108 as though fully set forth herein.

108. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

109. That Defendants, and each of them, have a duty to protect civilians.

110. That Defendants, and each of them, have a duty to obey and uphold the law.

111. That Defendants, and each of them, have a duty to investigate, report, and testify as to potential criminal matters in a truthful, honest, lawful, forthright, impartial, and reliable manner.

112. That Defendants, and each of them, breached the duties articulated in Paragraphs 111-113, to wit:

a. By failing to properly document and report the natural scene of Khloe Vidal's death;
b. By altering the scene of Khloe Vidal's death prior to taking photographic and forensic evidence;
c. By knowingly presenting evidence of the altered scene to the Court as though it were in its natural state;
d. By actively concealing the natural state of the scene of Khloe Vidal's death
e. By actively concealing the identity of Defendant M. Jogodka as an officer with Defendant LVMPD;
f. By tolerating or fostering the practice or policy of its officers' use of excessive force against citizens;
g. By tolerating or fostering the practice of failing to properly document the use of force against citizens;
h. By failing to properly screen applicants who apply to become police officers in the department;
i. By failing to provide adequate training of police officers.

113. As a direct and proximate result of Defendant's, Plaintiff Vidal and Scharas have experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

114. The acts of Defendants were committed knowingly, willfully, and maliciously with the intent to harm, injure, vex, harass, and oppress Plaintiffs. As a result, Plaintiffs seeks punitive and exemplary damages from Defendants, and each of them individually.

SEVENTH CLAIM FOR RELIEF

Failure to Properly Supervise or Train under 42 U.S.C. § 1983 (Against Defendant LVMPD)

115. That Plaintiff incorporates by reference paragraphs 1 through 116 as though fully set forth herein.

116. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

117. That Defendant LVMPD failed to properly supervise or train Defendant Officers regarding the proper use of investigation and subsequent reporting procedures.

118. That as a result of Defendant LVMPD's failure to properly supervise or train, Plaintiff Vidal and Scharas' constitutional rights were violated.

119. That Defendant LVMPD's failure to properly supervise or train Defendant Officers was done with deliberate indifference to the rights of Plaintiff Vidal and Scharas.

120. That as a direct and proximate cause of Defendant LVMPD's failure to properly supervise or train, Plaintiffs have experienced damages and are entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

EIGHTH CLAIM FOR RELIEF

Conspiracy (Against Defendants Officers and LVMPD)

121. That Plaintiff incorporates by reference paragraphs 1 through 122 as though fully set forth herein.

122. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

123. That Defendant Officers, acting in their official capacities, conspired to alter the scene of Khloe Vidal's death prior to collecting photographic or forensic evidence.

124. That Defendant Officers, acting in their official capacities, conspired to alter the scene of Khloe Vidal's death in order to avoid potential civil liability against Defendant LVMPD.

125. That Defendant Officers conspired with the intention of accomplishing an unlawful objective for the purpose of harming Plaintiffs Vidal and Scharas.

126. As a direct and proximate result of Defendant Officer's conspiracy, Plaintiffs have experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

NINTH CLAIM FOR RELIEF

Concert of Action (Against All Defendants)

127. That Plaintiff incorporates by reference paragraphs 1 through 128 as though fully set forth herein.

128. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

129. That Defendants Officers, acting in their official capacities, and Defendant Heather Jogodka acted in concert with one another to alter the scene of Khloe Vidal's death in order to avoid potential civil liability.

130. That Defendants acted in concert with one another with the intention of accomplishing an unlawful objective for the purpose of harming Plaintiff Vidal and Scharas.

131. As a direct and proximate result of Defendant's concerted actions, Plaintiffs have experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

TENTH CLAIM FOR RELIEF

Fraud on the Court (Against Defendants Cynthia Souchak and M. Jogodka)

132. That Plaintiff incorporates by reference paragraphs 1 through 133 as though fully set forth herein.

133. That at all times relevant hereto, Defendant Souchak and Defendnat M. Jogodka were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

134. That Defendant Souchak provided documentation depicting the scene of Khloe Vidal's death to the Court, knowing such depictions to have been altered.

135. That Defendant Souchak provided such documentation to be false in order to wrongfully convict Plaintiff Vidal.

136. That the documentation provided by Defendant Souchak was intended to or did in fact undermine the integrity of the court proceeding against Plaintiff Vidal.

137. That Defendant M. Jogodka falsely testified under oath at Plaintiff Vidal's preliminary hearing by stating that he was not involved with any law enforcement agency.

138. That Defendant M. Jogodka falsely testified under oath at Plaintiff Vidal's preliminary hearing by stating that his true identity was "David Davis."

139. That Defendant M. Jogodka knew such testimony to be false, as his true identity is Matthew Jogodka, an undercover officer with the Las Vegas Metropolitan Police Department's Intelligence and/or Drug Intelligence division.

140. That Defendant M. Jogodka provided such testimony known to be false in order to wrongfully convict Plaintiff Vidal.

141. That Defendant M. Jogodka's false testimony was intended to or did in fact undermine the integrity of the court proceeding against Plaintiff Vidal.

142. That Defendant Souchak and Defendant M. Jogodka provided such documentation and false testimony in order to avoid potential civil liability.

143. As a direct and proximate result of Defendant Souchak and Defendant M. Jogodka's fraud upon the Court, Plaintiff Vidal has experienced damages and is entitled to compensation for his pain and suffering, emotional distress, and other related costs, including attorney's fees, in an amount to be determined at trial.

144. That the conduct of the Defendants, and each of them, individually and in concert with one another was willful, intentional, oppressive, malicious and done in a wanton and reckless disregard of Plaintiff's rights and thereby warrant the imposition of punitive damages.

ELEVENTH CLAIM FOR RELIEF

Respondeat Superior (Against Defendants Officers and LVMPD)

145. That Plaintiff incorporates by reference paragraphs 1 through 146 as though fully set forth herein.

146. That at all times relevant hereto, Defendant Officers were acting within the scope of and their authority as agents and officers of Defendant LVMPD.

147. That Defendant LVMPD is liable for the tortious acts of Defendant Officers under the theory of respondeat superior.

148. That as a direct and proximate result of Defendant Officers' unlawful conduct, Plaintiffs experienced damages and is entitled to compensation for his pain and suffering, lost earnings, lost earning capacity, medical expenses, and other related costs including attorney's fees, in an amount to be considered at trial.

WHEREFORE, PLAINTIFF prays for judgment against DEFENDANTS as follows:

1. For general damages sustained by Plaintiff;
2. For special damages sustained by Plaintiff;
3. For an award of exemplary and punitive damages;
4. For reasonable attorneys' fees and costs incurred herein; and
5. For such other and further relief as the court may find just and proper under the circumstances.

JURY DEMAND

Plaintiff hereby demands a jury trial of all triable issues in the above titled action.

DATED, this 7th Day of February, 2017.

Respectfully Submitted By:
MUELLER, HINDS & ASSOCIATES, CHTD.

/S/

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